

**UNITED STATES DISTRICT COURT**  
**for the**  
**EASTERN DISTRICT OF VIRGINIA**

U.S.A. vs. Mark Cunningham

Docket No. 1:13MJ741

**Petition on Probation**

COMES NOW Frank Weaver, PROBATION OFFICER OF THE COURT, presenting an official report upon the conduct and attitude of Mark Cunningham, who was placed on supervision by the Honorable John F. Anderson, United States Magistrate Judge sitting in the Court at Alexandria, Virginia, on the 10th day of March, 2014, who fixed the period of supervision at one year, and imposed the general terms and conditions heretofore adopted by the Court and also imposed special conditions and terms as follows:

1. The defendant must participate in a drug education or treatment program, or both, if ordered to do so by the supervising probation officer.
2. The defendant must undergo drug testing, including but not limited to urinalysis, if ordered to do so by the supervising probation officer.
3. The defendant must appear on March 10, 2015, at 10:00 a.m.

**RESPECTFULLY PRESENTING PETITION FOR ACTION OF COURT FOR CAUSE AS FOLLOWS:**

See Attachment(s)

**PRAYING THAT THE COURT WILL ORDER** a summons to be issued directing that the offender appear before the Court to show cause why supervision should not be revoked.

Returnable Date June 3, 2014 10:00am

**ORDER OF COURT**

Considered and ordered this 15 day  
of May, 2014  
and ordered filed and made a part of the records in the  
above case.

/s/ JFA  
John F. Anderson  
United States Magistrate Judge  
United States Magistrate Judge

I declare under penalty of perjury that the foregoing  
is true and correct.

Executed on 5/1/14  
Frank Weaver  
Frank Weaver  
U.S. Probation Officer  
(703) 299-2336  
Place Alexandria, Virginia

**TO CLERK'S OFFICE**

Prob 12 (10/09)

**Petition on Probation**

**Page 2**

**RE: Cunningham, Mark**

**OFFENSE:** Possession of Marijuana in violation of Title 21, U.S.C. § 844.

**SENTENCE:** The defendant was sentenced to one year supervised probation pursuant to Title 18, U.S.C. § 3607, with the special conditions listed on page one.

**ADJUSTMENT TO SUPERVISION:** At the inception of supervision the defendant tested positive for the use of marijuana. When confronted, Mr. Cunningham admitted to illicit substance use on or about March 9, 2014. Accordingly, a violation report with a request that no action be taken was completed and approved by the Court on March 27, 2014. On April 3, 2014, the defendant again tested positive for the use of marijuana and admitted to use on or about April 2, 2014. As this represented the defendant's first illicit substance use while on an active period of probation, this officer completed another violation report with request that no action be taken. The no action request was approved by the Court on April 10, 2014. Currently, Mr. Cunningham has reported to the probation office as instructed and is currently seeking employment. The defendant has been referred to the Rappahannock Area Community Services Board (RACSB), and as of this writing his substance abuse treatment assessment remains pending.

**VIOLATIONS:** The following violations are submitted for the Court's consideration.

**MANDATORY CONDITION: COMMISSION OF A CRIME – DRIVING WHILE INTOXICATED  
1<sup>ST</sup> OFFENSE IN VIOLATION OF VIRGINIA CODE § A.18.2-266.**

On March 15, 2014, Mark Cunningham was arrested and charged with the above-referenced offense. Information obtained from the Spotsylvania County Sheriff's Office indicated on March 15, 2014, Deputy Tillman conducted a traffic stop on the defendant's vehicle with the suspicion the operator may have been driving under the influence of drugs or alcohol. During the traffic stop Mr. Cunningham failed his field sobriety test and subsequently a breath sample was obtained which yielded a blood alcohol content of 0.172. Mr. Cunningham was taken into custody and charged with the aforementioned criminal conduct. While in custody, the defendant admitted to drinking and driving. Currently, this matter is scheduled to be heard before the Spotsylvania County General District Court on May 27, 2014.

**CONDITION 11: FAILURE TO NOTIFY THE PROBATION OFFICER WITHIN 72  
HOURS OF BEING ARRESTED BY A LAW ENFORCEMENT  
OFFICER.**

On March 15, 2014, Mark Cunningham was arrested by the Spotsylvania County Sheriff's Department for the aforementioned criminal conduct but failed to report the contact to the Probation Officer. On April 22, 2014, the undersigned conducted a criminal records check and was notified of the defendant's arrest for Driving While Intoxicated on March 15, 2014. Mr. Cunningham failed to advise this officer of this arrest despite several opportunities to do so. On April 25, 2014, this officer confronted the defendant with respect to this new criminal conduct. At that time, the defendant admitted the violation and indicated he was waiting to determine if he would be convicted of the new criminal conduct before notifying this officer.

FJW/smk